

## Jefferson County, Wisconsin Farmland Conservation Easement Program

### *Facts and Tax Benefits*

Here is a short summary of the tax incentives for qualified conservation gifts; such as donated agricultural conservation easements. Tax laws change frequently and this information only briefly describes potential benefits. Anyone considering conservation gifts as part of their financial or estate plans should consult an attorney or tax planner familiar with these conservation tax benefits. The IRS rules for qualified conservation gifts are in the tax code in IRC Section 170(h), see [www.landtrustalliance.org](http://www.landtrustalliance.org).



### **Donation of “Qualified Conservation Contributions”**

The value of a voluntarily donated agricultural conservation easement, if that donation meets IRS qualifications, can be deducted from the donor’s federal income taxes. Under current tax laws, landowners who donate conservation easements or land to land trusts or government bodies may be able to deduct the fair market value of their donation up to 50% of their adjusted gross income in the year they make the gift. Any remaining value can be carried forward as deductions for 16 years. Donations may also be in the form of a bargain sale, in which the landowner sells property or an easement for less than fair market value. The difference between the fair market value and the sale price is the basis for any income tax deduction. **Benefits for Farmers:** A recently renewed law allows farmers to deduct up to 100% of the value of a donated conservation easement from their income taxes. Farmers are defined as those who receive more than 50% of their income from “the trade or business of farming,” and can be an individual or a corporation. This provision currently expires of December 31, 2011.

### **Estate Taxes**

While the federal estate tax expired at the end of 2009, it will return at a \$5 million unified credit and 35% rate in 2011. In addition, the 2001 law that removed geographic limitations from the section 2031(c) estate tax exclusion for land protected by a conservation easement has been extended through December 31, 2012. There are a variety of proposals before Congress that would exclude land under easement, or agricultural lands in general, from the estate tax. You can track the status of this effort on the Land Trust Alliance web site: [www.landtrustalliance.org](http://www.landtrustalliance.org)

### **Important Considerations**

Achieving tax savings through a voluntarily donated easement is possible; the conservation tax incentives have helped thousands of landowners chose lasting conservation. However, tax savings are neither guaranteed nor expeditious. Conservation gifts can take several months to close and potential federal tax benefits vary with the particulars of each donation. To qualify for deduction, donation of conservation easements must:

- 1) Be to a qualified organization - The easement must be granted to a qualified charitable conservation organization or a public agency charged with overseeing land conservation or historic preservation. The recipient organization “must have the resources to...monitor and enforce” the easement restrictions.
- 2) Be for conservation purposes - An easement must be granted exclusively for conservation purposes. The IRS has a broad definition of “conservation purposes” that includes preservation of natural habitats or resource lands, historic sites, scenic landscapes, wildlife corridors, areas for public education or recreation, and open spaces.
- 3) Be permanent – donated conservation easements must be granted in perpetuity.
- 4) Be properly appraised - The appraisal to determine the easement value must meet strict federal substantiation requirements as specified in federal tax law regarding conservation easements.
- 5) Be reported using IRS Form 8283 – The easement donor must complete Form 8283 including the value of the donation, and have the recipient organization sign the form to acknowledge receipt of the easement.

### **Local Property Taxes**

Local property tax assessments are based on a property's full-market value, which takes into consideration the property's reasonable development potential. If a conservation easement reduces or removes this potential, the assessment and, accordingly, the property taxes, may be reduced. Wisconsin Statute §70.32(1g) requires local tax assessors to consider the effects of a conservation easement when assessing property. In practice, there has been wide variation in how easements are considered by assessors across the state.

**For More Information:** Please contact Michelle Staff at the Jefferson County Zoning Department 920-674-8638.

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